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Application No.: 10/600,990
Reply to restriction requirement of January 24, 2006Patent
Attorney Docket No.: CU-3263Certification under 37 CFR 1.8b

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Brian W. Hameder
Name

Signature

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re: U.S. Patent Application of Emily F. HAMILTON
 Serial No.: 10/600,990 Group Art Unit: 3736
 Filed: June 13, 2003 Examiner: Michael APANIUS
 For: **METHOD AND APPARATUS FOR MONITORING AN OBSTETRICS PATIENT**

THE COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, VA 22313-1450
 MAIL STOP AMENDMENT

REPLY TO RESTRICTION REQUIREMENT

Dear Sir:

In response to the Restriction Requirement mailed January 24, 2006, please reconsider the restriction requirement in light of the following remarks.

Further to the Examiner's restriction requirement of January 24, 2006, the Applicant elects Group I (claims 1-14, 40-42 and 48) with traverse.

The Applicant respectfully reserves the right to pursue any or all of the non-elected claims in one or more divisional applications that may be filed prior to the issuance to patent of the present application.

The Examiner has indicated that restriction to one of the following inventions is required under 35 U.S.C. §121:

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- I. Claims 1-14, 40-42 and 48, drawn to an apparatus and system, classified in class 600, subclass 588.
- II. Claims 15-28, drawn to a method, classified in class 600, subclass 591.
- III. Claims 29-39, drawn to a computer readable storage medium, classified in class 600, subclass 304.
- IV. Claims 43-47, drawn to a client-server system, classified in class 709, subclass 203.

In response, the Applicant provisionally elects Group I (claims 1-14, 40-42 and 48) with traverse. The Applicant respectfully submits that the restriction requirement is traversed on the ground that the restriction is not proper because it would not be a serious burden on the Examiner should restriction not be required. As such, the Applicant submits that the present restriction requirement is improper.

In particular, M.P.E.P. § 803 states that:

"If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions".
[emphasis added]

For the reasons described below, the applicant submits that it would not be a serious burden for the Examiner to jointly search and examine the claims in groups I, II, III and IV. More specifically, the independent claims in each of these groups include substantially similar limitations and as such, when performing a proper search for the claims in one of the groups, art relevant to the other groups would necessarily be uncovered by the Examiner.

For the Examiner's convenience, the text of the independent claims in the various groups are reproduced below with the features similar to all the independent claims marked in bold:

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GROUP I

Claim 1:

An apparatus for monitoring an obstetrics patient, said apparatus comprising:

- a) an input for receiving a signal indicative of a measurement of a health characteristic of the obstetrics patient, the measurement being associated with a likelihood of a certain outcome;
- b) a processing unit coupled to said input, said processing unit being operative for processing said signal to derive data indicative of an action for causing a change in the likelihood of the certain outcome;
- c) an output for releasing the data indicative of the action for causing the change in the likelihood of the certain outcome.

Claim 40:

A system for monitoring an obstetrics patient, comprising:

- a) an interface for receiving a measurement of a health characteristic of the obstetrics patient, the measurement being associated with a likelihood of a certain outcome;
- b) an apparatus comprising:
 - i. an input for receiving a signal indicative of the measurement of the health characteristic of the obstetrics patient;
 - ii. a processing unit coupled to said input, said processing unit being operative for processing said signal to derive data indicative of an action for causing a change in the likelihood of the certain outcome;
 - iii. an output coupled to said processing unit, said output being suitable for releasing an output signal for causing a display unit to display information derived on the basis of the data indicative of the action for causing the likelihood of the certain outcome to be modified;
- c) a display unit coupled to the output of said apparatus, said display unit being responsive to the output signal to display the information derived on the basis of the data indicative of the action for causing the likelihood of the certain outcome to be modified.

Claim 48:

An apparatus for monitoring an obstetrics patient, said apparatus comprising:

- a) means for receiving a signal indicative of a measurement of a health characteristic of the obstetrics patient, the measurement being associated with a likelihood of a certain outcome;
- b) means for processing said signal to derive data indicative of an action for causing a change in the likelihood of the certain outcome;

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- c) means for releasing the data indicative of the action for causing the likelihood of the certain characteristic to be modified.

GROUP II

Claim 15:

A method for monitoring an obstetrics patient, said method comprising:

- a) receiving a signal indicative of a measurement of a health characteristic of the obstetrics patient, the measurement being associated with a likelihood of a certain outcome;
- b) processing said signal to derive data indicative of an action for causing a change in the likelihood of the certain outcome;
- c) releasing the data indicative of the action for causing the change in the likelihood of the certain outcome.

GROUP III

Claim 29:

A computer readable storage medium including a program element suitable for execution by a computing apparatus, said computing apparatus comprising a memory unit and a processor, said program element when executing on said processor being adapted for:

- a) processing a data element indicative of an action for causing a health characteristic of an obstetrics patient to be modified, the data element being generated according to the method described in claim 15;
- b) conveying information to a user on either one of a display screen or in paper format, the information being derived at least in part on the basis of the data element processed in a) and being indicative of the action for causing the likelihood of a certain characteristic to be modified.

Claim 30:

A computer readable storage medium including a program element suitable for execution by a computing apparatus for monitoring an obstetrics patient, said computing apparatus comprising:

- a) a memory unit;
- b) a processor operatively connected to said memory unit, said program element when executing on said processor being operative for:
 - i. receiving a signal indicative of a measurement of a health characteristic of the obstetrics patient, the measurement being associated with a likelihood of a certain outcome;
 - ii. processing said signal to derive data indicative of an action for causing a change in the likelihood of the certain outcome;
 - iii. releasing the data indicative of the action for causing the likelihood of the certain outcome to be modified.

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GROUP IV

Claim 43:

A server system for monitoring an obstetrics patient, said server system storing a program element for execution by a CPU, said program element comprising:

- a) a first program element component for receiving a measurement of a health characteristic of the obstetrics patient, the measurement being associated with a likelihood of a certain outcome;
- b) a second program element component for processing said measurement to derive data indicative of an action for causing a change in the likelihood of the certain outcome;
- c) a third program element component for causing the data indicative of the action to be conveyed to a user.

Claim 44:

A client-server system for monitoring an obstetrics patient, said client-server system comprising a client system and a server system, said client system and said server system operative to exchange messages over a data network, said server system storing a program element for execution by a CPU, said program element comprising:

- a) a first program element component executed on said server system for receiving a measurement of a health characteristic of the obstetrics patient, the measurement being associated with a likelihood of a certain outcome;
- b) a second program element component executed on said server system for processing said measurement to derive data indicative of an action for causing a change in the likelihood of the certain outcome;
- c) a third program element component executed on said server system for sending messages to said client system for causing said client system to display information on the basis of the data indicative of the action for causing the likelihood of the certain outcome to be modified;
- d) a fourth program element component executed on said client server system for receiving a message from said server system for displaying the information to a user.

The Applicant respectfully submits that Group I (Claims 1-14, 40-42 and 48), Group II (Claims 15-28), Group III (Claims 29-39) and Group IV (Claims 43-47) all contain the following same or similar limitations: "for monitoring an obstetrics patient"; "receiving a signal indicative of a measurement of a health characteristic of the obstetrics patient"; "the measurement being associated with a likelihood of a certain outcome"; "processing said signal to derive data indicative of an action for causing a change in the likelihood of the certain outcome"; "releasing the data indicative of the action for causing the change in the likelihood of the certain outcome".

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In light of the similarity of the limitations in the independent claims, the Applicant submits that similar prior art would be cited in connection with the claims in each of the groups I, II, III and IV and therefore the Applicant is of the view that it would not be a serious burden on the Examiner to examine the groups jointly.

The Applicant notes that the Examiner has limited his comments regarding the restriction requirement to whether the claims were independent or distinct. Although the applicant makes no comment as to whether the claims are indeed independent or distinct, the Applicant would like to direct the Examiner's attention to M.P.E.P. § 808.02, which reads as follows:

"where the related inventions as claimed are shown to be independent or distinct under the criteria of MPEP § 806.05(c) - § 806.06, the examiner, in order to establish reasons for insisting upon restriction, must explain why there would be a serious burden on the examiner if restriction is not required. Thus the examiner must show by appropriate explanation one of the following:

- (A) **Separate classification thereof:** This shows that each invention has attained recognition in the art as a separate subject for inventive effort and also a separate field of search. [...]
- (B) **A separate status in the art when they are classifiable together:** Even though they are classified together, each invention can be shown to have formed a separate subject for inventive effort when the examiner can show a recognition of separate inventive effort by inventors. Separate status in the art may be shown by citing patents which are evidence of such separate status, and also of a separate field of search.
- (C) **A different field of search:** Where it is necessary to search for one of the inventions in a manner that is not likely to result in finding art pertinent to other invention(s) (e.g., searching different classes/subclasses or electronic resources, or employing different search queries), a different field of search is shown, even though the two are classified together. The indicated different field of search must in fact be pertinent to the type of subject matter covered by the claims.

Where, however, the classification is the same and the field of search is the same and there is no clear indication of a separate future classification and field of search, no reason exists for dividing among independent or related inventions". [emphasis added]

In light of the similarity of the feature the independent claims in each of Groups I, II, III and IV, it is respectfully submitted that the field of search is the same for the groups identified by the Examiner and, if not the same, the fields of search for the groups are so greatly overlapping with one another as to be nearly the same. As

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such, there would be no burden, even less a serious burden, on the examiner to examine all groups of claims jointly. Moreover, the applicant submits that searches regarding claims in one group would necessarily reveal prior art applicable to all the other groups of claims.

As such, Applicant respectfully submits that the restriction requirement of a serious burden on the Examiner if the restriction is not required, is not satisfied and that the restriction requirement is therefore traversed.

The Applicant therefore respectfully requests that Group I (claims 1-14, 40-42 and 48), Group II (claims 15-28), Group III (claims 29-39) and Group IV (claims 43-47) should be jointly examined.

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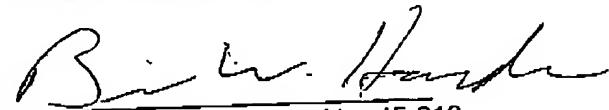
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CONCLUSION

The Applicant is of the view that claims 1-48 should be jointly considered.
Reconsideration of the restriction requirement is respectfully requested.

If the claims of the application are not considered to be in full condition for allowance, for any reason, the Applicant respectfully requests the assistance of the Examiner in making constructive suggestions or in drafting one or more acceptable claims so that the application can be placed in allowable condition as soon as possible and without the need for further proceedings.

Respectfully submitted,



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